

### **REMARKS**

Prior to entry of this Amendment, Claims 1-31 were pending and under consideration. With this Amendment Claims 8 and 29 are amended and Claims 9, 10, 16, 17, and 22-28 are canceled. Thus, after entry of this Amendment, Claims 1-8, 11-15, 18-21, and 29-31 are pending and under consideration.

Applicants have not dedicated or abandoned any unclaimed subject matter and moreover have not acquiesced to any rejections made by the Patent Office. Applicants reserve the right to pursue prosecution of any presently excluded claim embodiments in future continuation and/or divisional applications. Based on the above Amendment and the following Remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

#### **Amendments to the Claims**

Claims 8 and 29 are amended. Claim 8 is amended to remove multiple dependent claim wording and to include the salt form of the oligopeptide of Claim 7. Support for the amendment to Claim 8 is found in the claims and specification as originally filed and in particular at paragraph [0084] of the specification. Claim 29 is amended to remove dependence to Claims 11-28 and add dependence to Claims 1-8, Claims 11-15, and Claims 18-21. No new matter is added by the amendments. Accordingly, entry of the claims amendments into the instant application is proper and respectfully requested.

#### **Amendments to the Specification**

The specification was objected to because it is asserted that paragraph [0010], line 4, does not contain an appropriate SEQ ID NO as required under 37 C.F.R. §1.821.

Applicants have previously addressed this issue in the Response to Office Action filed 10/6/05. Applicants again submit that paragraph [0010], line 4, discloses the formula A-B-C-D-E and is not subject to the amino acid sequence requirements of 37 C.F.R. § 1.821. In addition, amino acid sequences with fewer than four specifically defined amino acids are specifically excluded from § 1.821. Applicants respectfully submit the formula A-B-C-D-E lacks four specifically defined amino acids as defined in the World Intellectual Property Organization (WIPO) Handbook on Industrial Property Information and Documentation, Standard ST.25: Standard for the Presentation of Nucleotide and Amino Acid Sequence Listings in Patent Applications (1998). Thus, Applicants respectfully request withdrawal of the objection.

The specification was objected to because it is asserted that SEQ ID NOs are required in the brief description of the drawings. Applicants have reviewed paragraphs [0013] and [0014] of the specification

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and submit that no amino acid sequences are disclosed in the brief description of the drawings. However, in order to facilitate prosecution, Applicants have amended the specification to include SEQ ID NOs for the named peptides. Based on the above Amendments to the Specification, Applicant respectfully requests withdrawal of the objection.

The specification was objected to because the amendment filed 8/13/04 directed amendments to the specification that were apparently off by one paragraph number. Based on the above Amendments to the Specification, Applicant respectfully requests withdrawal of the objection.

### **Claim Objections**

The Patent Office objected to Claims 29-31 under 37 C.F.R. §1.75(c) as being in improper multiple dependent form. The objection is moot because of the amendment to Claim 8 and canceling Claim 24. Applicants respectfully request withdrawal of the objection.

### **Double Patenting Rejection**

Claims 1-31 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over pending Claims 9 and 10 of pending U.S. Application No. 10/376,647 in view of U.S. Patent No. 5,702,946 A, WO 93/03764 and U.S. Patent No. 6,828,415 B2. Applicant respectfully submit that the provisional double patenting rejection is improper. As discussed in the 6/29/06 teleconference with Examiner DiBrino and Applicants' representative Todd Lorenz, Application No. 10/376,647 was filed on February 26, 2003. The 10/376,647 application claims priority to provisional application No. 60/360,211 filed on February 26, 2002. The instant application was filed February 17, 2004, and is a continuation of U.S. Serial No. 09/028,083, filed February 23, 1998, now U.S. Patent No. 6,696,545, which is a continuation-in-part of pending U.S. Serial No. 08/838,916, filed April 11, 1997. Since the principle reference does not qualify as a prior art reference to the instant case, Applicants respectfully request withdrawal of the rejection.

The Patent Office alleges that Application No. 10/376,647 would form the basis for rejection of Claim 1-31 under 35 U.S.C. 103(a) if the commonly assigned case qualifies as prior art under 35 U.S.C. 102(e), (f) or (g) and the conflicting inventions were not commonly owned at the time the invention in the instant application was made. Applicants respectfully disagree. As explained above, the instant application's priority date is April 11, 1997. Application No. 10/376,647 was filed a full 5 years after the priority date of the instant application. Therefore, the priority date of the instant application precludes a

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rejection based on Application no. 10/376,647 under 103(a) based upon 35 U.S.C. 102(e), (f) or (g).  
Applicants respectfully request withdrawal of the rejection.

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**Conclusion**

Based on the foregoing, Applicants submit Claims 1-8, 11-15, 18-21, and 29-31 are in condition for allowance. An indication of the same is therefore respectfully requested. If any matters can be resolved by telephone, the Examiner is invited to call the undersigned attorney at the telephone number listed below.

Respectfully submitted,  
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